United Nations A/HRC/29/NGO/116

General Assembly

Distr.: General
12 June 2015

English only

Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Global Network for Rights and Development (GNRD), non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09658 (E)
1509658

Please recycle

Safeguarding Human Rights While Countering Terrorism

INTRODUCTION

The Global Network for Rights and Development (GNRD) appreciates the opportunity to make a written statement to the UN Human Rights Council during its 29th session in June 2015. GNRD welcomes the recent reports by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on issues such as the civilian impact of remotely piloted aircraft and mass digital surveillance. GNRD endorses the UN Global Counter-Terrorism Strategy and urges the UN to continue to strengthen its initiatives in the promotion of human rights while countering terrorism.

Terrorism is a global geopolitical scourge. Groups with violent ideological ambition seek to undermine established international norms, threaten the peace and security of the international community, and unrepentantly violate the rights of humans established under international law. States have an obligation under international law to protect the human rights of their nationals and other people under their effective control. That entails a right and duty to take effective counter-terrorism measures in order to prevent and deter future terrorist attacks. In doing so States are however required to comply with their responsibilities under international law, in particular human rights law, humanitarian law and refugee law. In recent years the measures adopted by States to counter terrorism are in themselves posing a serious challenge to human rights and the rule of law.

SALIENT CONCERNS

The Right to Life and Fair Trial

State counter-terrorism units are increasingly conducting covert extrajudicial killings as a means of fighting terrorism. These include deliberate and targeted killings to eliminate specific individuals as an alternative to arrest and trial. These operations are in violation of a State's fundamental obligation to protect the right to life of citizens as well as to guarantee due process and the right to a fair trial. Likewise, "shoot-to-kill" law enforcement policies in response to perceived terrorist threats pose a serious risk to human rights-based law enforcement.

The High Commissioner for Human Rights has emphasized that in the fight against terrorism there must be extreme vigilance applied to those in a position of authority, to hold them accountable for abuses of power.

The Prohibition of Torture

The prohibition of torture is absolute under international law and regarded as a peremptory legal norm, making it non-derogable, even during a state of emergency. According to the Human Rights Committee, the International Convention on Civil and Political Rights applies to all people subject to a State's jurisdiction, including anyone within the State's power or effective control. Likewise, the International Court of Justice has stated the rights enshrined in the Covenant extend to acts done by a State in exercise of its jurisdiction beyond its own territory.

In practice, however, many States continue to enact policies utilizing torture as a means of intelligence gathering in the name of national security to confront terrorism, effectively circumventing and undermining the absolute prohibition of torture.

The Right to Privacy

Privacy is a fundamental human right whereby the individual is guaranteed a private sphere of autonomous development, interaction and liberty, free from unwarranted State intervention. The right to privacy is however not an absolute right. States have a legitimate power to limit the right to privacy under international human rights law for reasons of national security, but these instances must be the exception and not the norm. With the advancement of modern information technology systems the ability of the State to collect, store and share personal data has reached precarious heights to pervasively infringe upon the human right to privacy.

Despite the development of international data protection principles to ensure that personal information is fairly and lawfully obtained, kept secure and deleted when no longer required, States systematically breach the right to privacy claiming their ability to prevent and investigate terrorist acts is contingent upon increased surveillance powers.

As the cost of the technology required to operate mass digital surveillance programs becomes cheaper and more accessible, and as the analytical capacity of these systems develop, the potential infringement upon the right to privacy becomes a perpetual inevitability. Not only will this have a profound effect on the right to privacy, but also on other rights, such as freedom of expression, association and movement that all require privacy and non-interference to develop effectively.

CONCLUDING REMARKS

It is imperative that States are held accountable under their obligations to protect the human rights of their citizens under international law, especially when countering terrorism. We cannot allow threat of terrorist acts to compromise or degrade the fundamental freedoms and human rights-based security of the modern world. GNRD firmly and unwaveringly believes that sacrificing the universal rights of people for the purposes of countering terrorism is unjustifiable.

Pursuant to Article 6 of the United Nations General Assembly Resolution on the Global Counter-Terrorism Strategy, which encourages civil society to engage in efforts to enhance the implementation of the Strategy, GNRD has launched a global initiative on human rights and terrorism that brings together governments, international organizations and civil society, contributing to establish efficient, agreeable and legitimate international mechanisms for securing human rights while taking counter-terrorism measures. The global Initiative involves a series of conferences, workshops, official consultations and research on human rights and terrorism with the aim to establish a comprehensive international convention that provides adequate safeguard mechanisms for protecting human rights while countering terrorism and the creation of an intergovernmental oversight body.